IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1683 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KANTILAL JOITARAM PATEL

Versus

LAKHVAD GRAM PANCHAYAT

Appearance:

MR SURESH M SHAH for Petitioner Nos. 1-2

MR MEHUL S SHAH for Petitioner No. 1

MR MEHUL SHARAD SHAH for the Respondent.

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 23/03/2004

ORAL JUDGEMENT

The petitioners are the original defendants, against whom the respondent herein instituted a suit, being Regular Civil Suit No.132 of 1999. In the aforesaid suit, the respondent-plaintiff preferred an application for interim injunction at Exhibit 5. The trial court, initially, granted the injunction in favour of the plaintiff. Thereafter, the petitioners herein gave an application Exhibit 27, for modifying the

injunction order. The trial court allowed the said application on condition that the defendants are permitted to put up construction, but in case they lose in the proceedings, they will remove the construction at their own costs. Accordingly, the original order was modified by the trial court. Against the said order, the respondents herein preferred an appeal before the District Court, being Civil Miscellaneous Appeal No.253 of 1999. While admitting the said appeal, the appellate court granted order of status quo. Against that, the original defendants have come in this revision application. Looking to the nature of the order, in my view, the order is passed at an interlocutory stage. In view of the amendment in Section 115 of CPC, this revision is not maintainable. The revision is accordingly disposed of as not maintainable. Rule is discharged. No costs.

However, if Civil Miscellaneous Appeal No.253 of 1999 is still pending before the appellate Judge, the appellate Judge may try to dispose of the same at the earliest, and, in any case, by 31st August, 2004. This direction is given on assumption that Civil Miscellaneous Appeal No.253 of 1999 is pending before the appellate Judge. If no such appeal is pending, then there is no question of complying with the direction to dispose of the said appeal early.

23rd March, 2004 (P.B. Majmudar, J.)

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(apj)